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EX PARTE PRESENTATION

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Sandwich Isles Communications, Inc., Petition for Declaratory
Ruling, WC Docket No. 09-133

Dear Ms. Dortch:

On February 23, 2012, Jeffrey Dupree of National Exchange Carrier Association, Inc. ("NECA"), and I met with Deena Shetler, Nicholas Alexander, Pamela Arluk, Travis Littman, and Douglas Slotten of the Wireline Competition Bureau in the above-captioned docket.

In this meeting, NECA responded to the claim of Sandwich Isles Communications, Inc. ("SIC") that NECA was not following the Bureau Declaratory Ruling when it excluded from future pool payments approximately \$2 million in revenues SIC received from Time Warner Cable for the use of SIC's undersea cable and related network for the provision of unregulated services. This cost accounting methodology was specifically required in the Bureau Declaratory Ruling because the revenues constituted unregulated use of the network, and should not be included in the NECA pool regulated revenue requirement.

The Declaratory Ruling required NECA to include in the pool approximately \$1.9 million in expenses that NECA originally included in the pool plus 50 percent of the "disputed lease expense." Footnote 30 of the Declaratory Ruling provides that "the lease expenses subject to dispute would exclude those expenses associated with actual usage of the cable to provide services not encompassed by the NECA tariff" Accordingly, the approximately \$2 million in revenues received from Time Warner was deducted from the "disputed lease expenses" prior to applying the 50 percent figure. NECA made SIC aware that this was NECA's interpretation of the Declaratory Ruling last fall during a review of SIC's cost study.

During NECA's review of SIC's 2010 cost study SIC did not argue that only its "expenses" should be deducted from the "disputed lease amounts." Rather, it stated that it should not be required to make any adjustment due to the Time Warner Cable lease. In fact, SIC has never submitted expenses with respect to this arrangement

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with Time Warner. It is typical that NECA members may not have expense details, including allocated direct and indirect expenses, for use in identifying expense figures associated with a lease. In this circumstance, it is typical to use lease payments, or revenues, as an approximation of expenses.¹ Because SIC never submitted an expense showing that would represent the Time Warner use of the leased facilities, NECA substituted revenues as an expense surrogate in accordance with longstanding practices.

Pursuant to 47 C.F.R. § 1.1206, please include this ex parte filing in the above-referenced docket. Please let me know if you have further questions.

Sincerely,

/s/ Gregory J. Vogt

Gregory J. Vogt
Counsel for National Exchange Carrier Association, Inc.

cc: Deena Shetler
Nicholas Alexander
Pamela Arluk
Travis Littman
Douglas Slotten

¹ NECA Cost Guidelines Paper, Treatment of Rent Revenues for USF, LSS and Cost Study 1 (September 2010) (Appendix A); NECA Cost Issues Manual, Issue 8.3, Separations Treatment of Rent Revenue (issued December 1990) (Appendix B).

Appendix A

Confidential Information redacted pursuant to Protective Order, Docket No. 09-133.

Appendix B

Confidential Information redacted pursuant to Protective Order, Docket No. 09-133.